Village of Irvington
Zoning Board of Appeals

Minutes of Meeting held September 19, 2000

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M., Tuesday, September 19, 2000, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members and alternate were present:

Louis C. Lustenberger, Chairman
Bruce E. Clark
Robert C. Myers
George Rowe, Jr.
Paul Giddins

Mr. Lustenberger acted as Chairman and Mr. Rowe as Secretary of the meeting.

The following matters, all new matters, were on the agenda:

2000-15 John B. Murphy & Lauren Osa Brown-Murphy - 53 Havemeyer Road, Irvington, NY (Sheet 12A, Block 255, Lot 2)

2000-16 Kenneth & Debra Bernstein - 9 Greyrock Terrace, Irvington, NY (Sheet 10D, Block 242, Lot 23)

2000-17 Mr. & Mrs. Bhattacharya - 64 Butterwood Lane East, Irvington, NY (Sheet 13, Lot P54)

2000-18 Irvington Place Properties - 12 Main Street, Irvington, NY (Sheet 4, Block 204, Lot 5)

2000-19 Giora & Ursula Zeevy - 150 Fieldpoint Drive, Irvington, NY (Sheet 10G, Lot 150)

Murphy

Mr. and Mrs. Murphy seek here (1) an interpretation that a substandard lot, approved by the Planning Board as part of a subdivision, does not for that reason require a variance for a proposed addition to their residence, if the addition in other respects meets the setback and other requirements of the Code, and (2) a variance permitting a roof overhang that penetrates the front yard setback requirement by 2 ½ feet.

Mr. and Mrs. Murphy appeared at the hearing on their own behalf, and, in addition, were represented by Richard Blancato, Esq.. The lot in question was the subject of a subdivision approved by the Planning Board in 1965, in which substandard lots were approved as part of the overall subdivision plan. A description of the proposed addition was the subject of appropriate drawings,

a site plan and subdivision plan were all supplied by applicants. Under the circumstances, the Board concluded unanimously that the proposed addition to the residence did not, simply because the lot was sub-standard in size, require a variance, where the lot size was approved as part of an approved subdivision plan.

Applicants, as stated, also seek a variance because the corner of the roof of the proposed addition would intrude 2 ½ feet into the required setback. The Board concluded unanimously that the variance should be granted given the balancing of the factors that the Board is required to take into account, noting that the proposed intrusion was practically de minimis.

Bernstein

Mr. and Mrs. Bernstein seek a variance to permit them to construct a new deck to replace a smaller existing one. The new deck would encroach upon the backyard set back requirements by 10 feet (reducing the set back from 30 to 20).

Mr. and Mrs. Bernstein appeared on their own behalf, accompanied by their contractor. They had submitted a site plan, a plot plan and a drawing showing the proposed addition, including a first floor plan, a foundation plan and elevations, and a letter from the building inspector denying a building permit.

Mr. Bernstein explained that the present deck was too narrow to permit meaningful family use. It is reached by sliding doors from the living room on the first floor of the house. The present deck serves, according to Mr. Bernstein, little more than access by stairs to the backyard, some 10' feet below. The house, from the rear, appears to be a three level house because there is a family room at the "basement" level with exposure to the backyard. The basement, he explained, does not have exposure to the front of the house because the house is built on a sloping lot. He stated, in response to a question from the board, that the family room has access to a patio in the backyard.

He submitted, in addition, photographs showing the view of the old deck from the rear and the side, as well as the view from the deck toward the backyard and

beyond, together with a letter from several neighbors indicating they had no objection to the proposed addition.

Doris and Louis Morin, neighbors whose backyard abuts the Bernstein property, appeared in opposition to the application. Their principal objection is that the proposed deck will loom over their backyard and egregiously invade their privacy. They submitted a Memorandum of Law dated September 19, 2000. The Memorandum reviewed the history of the building of the Bernstein house, and made the following points: the house is built on landfill which increases the above-ground height of the proposed deck, and aggravates the impact on the Morins' backyard, the variance requested is a large one, and will have an adverse impact on the neighborhood, and the problem was self-created.

The Memorandum included photographs which illustrate the various points made by the Morins.

The Board adjourned the case to the next board meeting to enable the Board to consider the Morin Memorandum and to inspect the properties.

Bhattacharya

This matter was not heard because the proper notice to neighbors required by the Ordinance had not been given.

Irvington Place Properties

The Properties seek a variance to permit the ground floor of 12 Main Street to be changed from apartments to office use. The building inspector had denied a permit for failure to meet the parking requirements of Section 243-36 of the Code. The inspector had attached to his letter of denial a calculation showing that 11 parking spaces would be required, whereas the property could provide only six.

The applicant is owned by Dr. and Mrs. Weiler. In addition to Dr. Weiler and his wife, applicant was represented by principals of RUR Architecture, P.C. who had submitted drawings, including a proposed site plan, existing site plan, two alternate site plans, existing cellar plan and first floor plan and proposed cellar plan and first floor plan and exterior elevations. The site

includes a sizeable parking lot. Dr. Weiler is a dentist who plans to use the ground floor as an office. He stated that the building inspector's calculation included all of the ground floor, including common space, whereas only 870 square feet would be converted to office space. Applicant argues that only 9 parking spaces are needed. Applicant stated that 9 spaces could be provided making maximum use of the parking area, but that it would involve taking down shrubbery on the west and south sides of the parking area, and that six spaces could be provided, if no such shrubbery were removed.

The applicants submitted a letter from the Planning Board, recommending that the shrubbery be preserved. A dentist's office, the Board noted, did not usually have a heavy population of parkers. One neighbor supported a plan which would preserve that shrubbery. Accordingly, the Board unanimously decided to grant the variance, requiring that only 6 spaces be provided which the applicant stated it could readily do without disturbing the shrubbery.

Zeevv

Proper notice of this matter had not been given, and it was not heard at the meeting. The Chairman noted that in view of the fact that the property in question was part of a subdivision plan approved by the Planning Board it seemed to him unlikely that any variance was required simply because the property was of substandard size.

There being no further business to come before the meeting, it was, upon motion duly made and seconded, unanimously adjourned.

George Rowe, Jr.